[Filed March 31, 1994]

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

IN RE:	)	No. GJ 1-93
	)	
GRAND JURY 1-93	)	MEMORANDUM OF
	)	DECISION AND
	)	ORDER
	)	[UNDER SEAL]
_____	)	

Reinhold Marsoner was subpoenaed before a federal Grand Jury to sign "a directive authorizing any and all banks to disclose all records in his name and all records for any entities as to which he was a relevant principal, signatory or beneficiary." Mr. Marsoner appeared before the Grand Jury and refused to sign the directive, invoking privileges under the Fourth and Fifth Amendments to the Constitution. The Court was presented an order supported by a memorandum to compel Mr. Marsoner to sign the consent directive. The Court signed the order. Thereafter, Mr. Marsoner petitioned the Court to vacate the order

and to further brief the issue; the Court granted Mr. Marsoner's request. Mr. Marsoner, in his memorandum, has reasserted his objections based on the Fourth and Fifth Amendments as well as argued that signing the consent directive would incriminate Mr. Marsoner under Austrian law. The government has filed opposing memoranda, and oral argument has been held.

The procedure used by the government in securing the authorization to disclose the bank records is not violating Mr. Marsoner's Fifth Amendment privilege against self-incrimination. Doe v. United States, 487 U.S. 201 (1988). Further, Mr. Marsoner's Fourth Amendment rights are not violated under a consent directive. United States v. Payner, 447 U.S. 727 (1980); United States v. Mann, 829 F.2d 849 (9th Cir. 1987); United States v. Davis, 767 F.2d 1025 (2nd Cir. 1985); and United

States v. Sturman, 951 F.2d 1466 (6th Cir. 1991).

Having found no violation of Fourth and Fifth Amendment rights, the Court deems that there is no need for an evidentiary hearing regarding implications under Austrian law.

IT IS ORDERED that Reinhold Marsoner appear at the Internal Revenue Service Building, 210 E. Earll Drive, Phoenix, Arizona, on or before Friday, April 8, 1994 at 12:00 p.m. and sign the attached Consent Directive.

DATED this 31 day of March 1994.

/s/Stephen M. McNamee
Stephen M. McNamee
United States District Judge

Copies to all counsel of record.

CONSENT DIRECTIVE

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

I, REINHOLD MARSONER, hereby authorize and direct any bank at which I may have or may have had a bank account of any kind, in my name or any other name, for which account I am, was, or may be a relevant principal, signatory or beneficiary to disclose all information and deliver copies of all documents of every nature in its possession to Grand Jury 93-1, empaneled October 29, 1993, in the District of Arizona, or to any attorney or agent of the United States Attorney's Office for the District of Arizona assisting said Grand Jury, and this shall be irrevocable authority for so doing. I further irrevocably authorize any employee, officer, or agent of any such bank to give testimony or evidence without limitation in connection with any proceedings arising out of or

relating to this authority and the documents disclosed pursuant thereto.

This direction has been executed pursuant to an Order of the United States Court for the District of Arizona issued in connection with an investigation being conducted by the aforesaid Grand Jury.

This direction is intended to be construed as a consent to disclosure under the Law of Austria with respect to any of the bank accounts for which I may be a relevant principal.

_____

REINHOLD MARSONER

Subscribed to and sworn to before me this _____ day of _____, 1994.

_____

Notary Public

My Commission Expires:

_____